

REMARKS

Claims 1 -13 are pending in the Application and are now presented for examination.

Claims 1, 2 and 6 have been amended. No new matter has been added.

Claim 1 is the only independent claim.

***Claim Objections***

Claim 1 was objected due to informalities. Claim 1 has been amended in accordance with the Examiner's suggestion in order to better conform to U.S. patent practice. Claim 6 has been amended to correct the typographical error. It is believed that the objections have been addressed.

***Patentability under 35 USC §112***

Claim 2 recites a secondary volume that "takes the form of an oronasal mask". This claimed feature was rejected as lacking sufficient antecedent basis. Claim 2 has been amended to more clearly define this feature. It is believed that the amendment to Claim 2 addresses the rejection and Applicant requests that the rejection to this claim be withdrawn.

***Patentability under 35 USC §102***

On page 3 of the Office Action, Claims 1-5, 8-12 was rejected under 35 U.S.C. §102(e) as being anticipated by Keifer *et al.* (U.S. Patent #: 7,261,104, hereinafter referred to as "Keifer"). Applicant respectfully disagrees with this rejection.

**Independent Claim 1**

Applicant's invention relates to a respirator that includes an outer mask defining a main volume and an oronasal mask located within the outer mask, the oronasal mask defining a secondary volume. Air for breathing enters the outer mask via a one-way valve and filter. A conduit is provided for the passage of air from the outer mask to the oronasal mask. The air passes through the passage and through a secondary filter before entering the oronasal mask. Exhaled air exits the oronasal mask via an exhale conduit fitted with an exhale valve.

Specifically, Claim 1 recites a respirator for covering at least the face of wearer and incorporating a visor positioned to enable the wearer to see. The respirator includes two filters, namely a primary filter and a secondary filter. The respirator also includes "a main volume *into which air may be drawn from the exterior via the primary filter*" and "a secondary volume positioned so as to enclose the nose and mouth of the wearer." The secondary filter "*is provided to filter gas passing from the main volume to the secondary volume*". Keifer fails to disclose or suggest these claimed features.

Keifer merely discloses an air-purifying respirator facepiece with a removable, one-piece filter element connector. Keifer's device includes a removable component housing, a lens, and a nosecup that prevents fogging of the portion of the lens used for viewing. Notably, in contrast to Applicant's claimed invention and as discussed below, Keifer lacks primary and secondary filters. Further, Keifer does not draw air into the main volume of the respirator, but rather into the secondary volume.

Applicant's Claim 1 recites a respirator with two distinct filters. A primary filter that receives and filters the outside air before the air passes into the main volume ("a main volume into which air may be drawn from the exterior via the primary filter") and a secondary filter that

filters “gas passing from the main volume to the secondary volume.” Keifer does not disclose these filters.

Keifer discloses two embodiments: a first embodiment (10) that includes inhalation ports 110 each having filtering element connectors 400 (Keifer, FIGS. 1A, and 1C, col. 5, lines 17-35). These filtering connectors filter air from outside the respirator mask before the air enters the mask. In the second embodiment (10’), inhalation port 274 cooperates with filtering cartridge 800 (Keifer, FIG. 2C, col. lines 25-30). As in the first embodiment, this filtering cartridge filters the outside air before it enters the mask. In other words, the only filters disclosed in Keifer filter outside air before the air passes through the inhalation port of the mask. There is no secondary filter that filters the air already within the mask’s main volume before it reaches the secondary volume. Thus, each filter element in Keifer (400) operates as a primary filter that receives and filters outside air before the air passes into the mask. Thus, ***Keifer does not disclose or even suggest a secondary filter “that filters gas passing from the main volume to the secondary volume.***” Claim 1 is patentable for at least this reason.

Keifer also fails to disclose or suggest “a main volume into which air may be drawn from the exterior via the primary filter”, as recited in Claim 1. In Keifer, the outside air is drawn into the nose cap 500, which represents a smaller, secondary volume, rather than into a larger, main volume. (“During inhalation, air is drawn through inhalation ports 110 (that is, through a filtering cartridge connected to bayonet connector 400). Check valve 480 opens and check valve 280 closes during inhalation. Flange or baffle 530 directs the inspired air over the interior wall of lens 50, through baffle openings 540 formed in baffle 530 *and through inspiration openings 550 formed in nose cup 500.*”) (Keifer, col. 7, lines 47-54) (emphasis added). Thus, air is drawn

in and directed through the openings in nose cup 500, which represents the secondary volume and not the main volume (respirator mask 50). Claim 1 is patentable for at least this additional reason.

In sum, Keifer fails to disclose or even suggest all of the features of amended Claim 1. Specifically, Keifer fails to teach a secondary filter “to filter gas passing from the main volume to the secondary volume”, and also fails to teach “a main volume into which air may be drawn from the exterior via the primary filter.” For at least these reasons, the rejection of Claim 1 should be withdrawn.

Dependent Claims 2-5 and 8-12

Dependent Claims 2-5 and 8-12 are each dependent either directly or indirectly from independent Claim 1, discussed above. These claims recite additional limitations which, in conformity with the features of their corresponding independent claim, are not disclosed or suggested by the art of record. The dependent claims are therefore believed patentable. However, the individual reconsideration of the patentability of each claim on its own merits is respectfully requested.

***Patentability under 35 USC §103***

On page 7 of the Office Action, Claims 6, 7 and 13 were rejected under 35 U.S.C. §103(a) as being unpatentable over Keifer *et al.* (U.S. Patent #: 7,261,104, hereinafter referred to as “Keifer”) in view of Tayebi (U.S. Patent #: 6,978,782, hereinafter referred to as “Tayebi”).

Dependent Claims 6, 7 and 13

Claims 6, 7 and 13 are each dependent either directly or indirectly from one or another of independent Claim 1, discussed above. These claims recite additional limitations which, in conformity with the features of their corresponding independent claim, are not disclosed or suggested by the art of record. The dependent claims are therefore believed patentable. However, the individual reconsideration of the patentability of each claim on its own merits is respectfully requested.

For all of the above reasons, the claim objections are believed to have been overcome placing Claims 1-13 in condition for allowance, and reconsideration and allowance thereof is respectfully requested.

The Examiner is encouraged to telephone the undersigned to discuss any matter that would expedite allowance of the present application.

The Commissioner is hereby authorized to credit overpayments or charge payment of any additional fees associated with this communication to Deposit Account No: 502104.

Respectfully submitted,

Date: February 25, 2011

By: /Alan M. Weisberg/  
Alan M. Weisberg  
Reg. No: 43,982  
Attorney for Applicant  
Christopher & Weisberg, P.A.  
200 East Las Olas Boulevard, Suite 2040  
Fort Lauderdale, Florida 33301  
**Customer No: 70757**  
Tel: (954) 828-1488  
Fax: (954) 828-9122  
email: ptomail@cwiplaw.com